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*Local Counsel for Allan B. Diamond, Chapter 11 Trustee*

UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

In re

HOWREY LLP,

Debtor.

Case No. 11-31376 DM

Chapter 11

**SEVENTH INTERIM  
APPLICATION FOR  
COMPENSATION AND  
REIMBURSEMENT OF  
EXPENSES BY ATTORNEYS FOR  
TRUSTEE (PERIOD COVERED:  
OCTOBER 1, 2013 – JANUARY 31,  
2014)**

Date: April 23, 2014

Time: 9:30 a.m.

Ctrm: 22<sup>nd</sup> Floor

U.S. Bankruptcy Court

235 Pine Street

San Francisco, California

TO: THE HONORABLE DENNIS MONTALI, UNITED STATES BANKRUPTCY JUDGE:

Kornfield, Nyberg, Bendes & Kuhner, P.C. (“KNB&K” or “Applicant”), hereby submits its Seventh Interim Application for Compensation and Reimbursement of Expenses by Attorneys for Trustee (the “Application”) and respectfully represents as follows:

**I. INTRODUCTION**

KNB&K is a professional law corporation, each of whose attorneys is duly licensed and admitted to practice before this Court. KNB&K has been retained by Allan B. Diamond, Chapter

11 Trustee in the above-captioned bankruptcy case (the “Trustee”), having been so retained by order of this Court authorizing and approving such employment [Docket No. 434]. As such attorney, Applicant has performed various legal services for the Trustee, some of the particulars of which are hereinafter set forth.

## II. BACKGROUND

A. On April 11, 2011 (the “Petition Date”), certain alleged creditors of the Debtor filed an involuntary petition for relief under Chapter 7 of the Bankruptcy Code. On June 6, 2011, the Court entered the Order for Relief and Converting Case to One Under Chapter 11 (“Order for Relief”). Following the Petition Date, through the date of entry of the Order for Relief (“Gap Period”), the Debtor continued to operate its business in accordance with § 303(f) of the Bankruptcy Code.

B. On October 7, 2011, the Office of the United States Trustee filed an Application to Appoint Allan B. Diamond as Chapter 11 Trustee. On October 13, 2011, this Court entered an order appointing Mr. Diamond as Chapter 11 Trustee.

C. This Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2). The statutory predicates for relief sought herein are 11 U.S.C. §§ 105(a), 330, 331 and Federal Rule of Bankruptcy Procedure (“Bankruptcy Procedure”) 2016.

## III. NOTICE

Notice of the hearing on this Application has been provided to all parties entitled to Notice pursuant to this Court’s Order Limiting Notice, entered on August 15, 2011 and as amended on December 9, 2011 [Docket No. 446].

## IV. EMPLOYMENT AUTHORIZATION

This Court entered its Order Authorizing and Approving Employment of Co-Counsel which authorized the Trustee to employ KNB&K as its local general bankruptcy counsel on an hourly basis to represent the Trustee in all legal aspects of the Chapter 11 case.

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On July 26, 2011, the Court entered an *Order Granting Motion to Authorize Procedures for Interim Compensation and Reimbursement of Expenses of Professionals* (with a 20% holdback) of fees and costs after notice. Said Order was amended on December 16, 2011 [Docket No. 481] to include the Trustee and his professionals. The order requires interim applications to be filed for approval of the fees and payments made (the 80% of fees and 100% of costs) as well as the unpaid fees (the 20% holdback).

#### V. APPLICANT'S ATTORNEYS' FEES AND EXPENSES

Applicant incurred attorneys' fees and expenses in this Chapter 11 case from October 1, 2013 through January 31, 2014 (the "Application Period") in the amount of \$24,859.25 and \$271.91, respectively. These attorneys' fees and expenses can be broken down on a monthly basis as follows:

Month	Fees	Expenses	Total
October 2013	\$10,052.25	\$94.34	\$10,146.59
November 2013	\$7,624.50	\$138.35	\$7,762.85
December 2013	\$4,178.75	\$20.32	\$4,199.07
January 2014	\$3,003.75	\$18.90	\$3,022.65

#### VI. OVERVIEW OF CHAPTER 11 CASE; PRESENT POSTURE OF THE CASE

The Trustee is administering the case. Among the tasks that require completion are the collection of accounts receivable, collection of the Debtor's interest in contingent fee litigation, prosecution of causes of action, claims reconciliation, transition of current litigation to successor law firms, sale of assets, completion of the disposition of client files, wind-down of the Debtor's information technology systems, and wind-down of European operations.

#### VII. PROJECT BILLING

KNB&K has included the following project billing categories in this Application:

##### A. Case Administration

In a case of this magnitude, it is important for local counsel to be aware of all substantive and procedural matters in the case, to direct the appropriate resources to such issues, and to

1 facilitate an efficient administration of the case for the benefit of all related parties.

2 Your Applicant reviewed emails concerning general administration and operations,  
3 conferred with counsel and responded to inquiries regarding general notice issues and conferred  
4 with Court staff as appropriate.

5 Your Applicant advised the Trustee regarding pending cases relating to Jewel v. Boxer  
6 claims, including reviewing pleadings and various cases filed in this bankruptcy case. In addition,  
7 your Applicant reviewed other similar cases being litigated in other forums to help guide the  
8 Trustee in prosecuting these cases.

9 In addition, your Applicant reviewed the case law regarding the Unfinished Business cases  
10 as well as the standing issues since Stern v. Marshall.

11 Your Applicant reviewed various pleadings filed in this case and advised Trustee  
12 accordingly. Your Applicant monitored all appeals taken in this case and advised the Trustee  
13 accordingly.

14 Project Summary

15 Attorneys' fees totaling \$23,889.25 related to this project billing category are set forth and  
16 described in detail in Exhibit A hereto and by this reference incorporated herein, which exhibit  
17 identifies the individual professionals who performed specific services.

18 **B. KNB&K Compensation**

19 This project covers Applicant's review of time and preparation of all pleadings relating to  
20 the preparation of the Sixth Interim Fee Application, attending the hearing on Sixth Interim Fee  
21 Application and the preparation of the Monthly Fee Statements. Per the Northern District  
22 Guidelines, your Applicant notes that the total time billed for this project is 3.9% of the total of the  
23 Sixth Interim Fee Application and Monthly Fee Statements.

24 Project Summary

25 Attorneys' fees totaling \$970.00 related to this project billing category are set forth and  
26 described in detail in Exhibit B hereto and by this reference incorporated herein, which exhibit  
27 identifies the individual professionals who performed specific services.

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## VIII. BILLING SUMMARY

In the course of its representation of the Trustee in these matters from October 1, 2013 through January 31, 2014, KNB&K has devoted in excess of 66.55 hours of professional time in the performance of such services, including those set forth hereinabove, as indicated on Applicant's Time Summary, a copy of which is attached hereto as Exhibit C and by this reference incorporated herein. The Time Summary identifies the individual professionals who performed specific services by the initials indicated below and can be summarized as follows:

Name	Initials	Hours	Hourly Rate	Amount
Eric A. Nyberg, Esq.	EAN	0	\$425.00	\$0
Chris D. Kuhner, Esq.	CDK	64.05	\$385.00	\$24,659.25
Nancy L. Nyberg	NLN	2.50	\$80.00	\$200.00
<b>Total:</b>		<b>66.55</b>		<b>\$24,859.25</b>

## IX. REIMBURSEMENT OF EXPENSES

KNB&K has also incurred expenses in the sum of \$271.91 from October 1, 2013 through January 31, 2014 as itemized on Exhibit D attached hereto and by this reference incorporated herein. The amounts currently charged by KNB&K for ordinary and customary expenses are as follows:

Expense Category	Amount
Copying In-House (CXC)	\$116.40
Postage (CPO)	\$35.76
Lexis Nexis Online Research (LN)	\$119.75
<b>Total:</b>	<b>\$271.91</b>

## X. PRIOR COMPENSATION

This Application is Applicant's Seventh Interim Application for Compensation in this case. Pursuant to the Court's Order Granting Motion to Authorize Procedures for Interim Compensation and Reimbursement of Expenses of Professionals, entered July 26, 2011, as

amended on December 16, 2011 [Docket No. 481], Applicant has received interim payments from the Trustee for monthly statements submitted for the time period October 1, 2013 through January 31, 2014 for fees and costs in the amount \$14,374.09. The Court has approved KNB&K's First Interim Fee Application awarding interim fees of \$15,224.50 and costs of \$671.93, KNB&K's Second Interim Fee Application awarding interim fees of \$3,275.60 and costs of \$495.15, KNB&K's Third Interim Fee Application awarding interim fees of \$20,978.75 and costs of \$1,382.09, KNB&K's Fourth Interim Fee Application awarding interim fees of \$17,080.30 and costs of \$684.73, KNB&K's Fifth Interim Fee Application awarding interim fees of \$13,304.25 and costs of \$294.68 and KNB&K's Sixth Interim Fee Application awarding interim fees of \$9,481.25 and costs of \$652.61. The 20% holdback on fees remains unpaid at this time.

#### **XI. REASONABLE VALUE OF SERVICES PERFORMED**

For the most part, services were rendered by Chris D. Kuhner and Nancy L. Nyberg, designated on the attached billing statements as "CDK" and "NLN." Attached as Exhibit E are the resumes of the paraprofessionals who have rendered services in this case. All work done by paraprofessionals was not clerical in nature and, were said services not provided by paraprofessional, some would have been provided by counsel at substantially higher rates.

#### **XII. SOURCE OF COMPENSATION**

The source of compensation to be paid to KNB&K is the cash held by the estate.

#### **XIII. NO SHARING OF COMPENSATION**

No compensation previously received by KNB&K has been shared with any other person, and no agreement or understanding exists between KNB&K and any other person for the sharing of compensation received or to be received for services rendered in, or in connection with, this case, except with the regular members and associates of KNB&K.

#### **XIV. RELIEF REQUESTED**

WHEREFORE, KNB&K prays that this Court enter its Order (i) approving the attorneys' fees incurred by KNB&K in its representation of the Trustee from October 1, 2013 through January 31, 2014 in the sum of \$24,859.25; (ii) approving reimbursement of all expenses of \$271.91 incurred by KNB&K in its representation of the Trustee from October 1, 2013 through

1 January 31, 2014; (iii) authorizing the Trustee to pay KNB&K the sum of \$4,971.85 for services  
2 rendered and expenses incurred from October 1, 2013 through January 31, 2014, but not yet  
3 compensated or reimbursed ; and (iv) for such other and further relief as the Court deems just and  
4 proper.

5 Dated: February 7, 2014  
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7 By: /s/ Chris D. Kuhner  
8 (Bar No. 173291)  
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14 *Local Counsel for Allan B. Diamond, Chapter 11*  
15 *Trustee for Howrey LLP*  
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## VERIFICATION

I, Chris D. Kuhner, declare as follows:

1. That I am a shareholder of Kornfield, Nyberg, Bendes & Kuhner, P.C.

2. That I am familiar with the above application and the facts therein are true to my knowledge and belief. The copies of the billing statements are true and correct copies of Kornfield, Nyberg, Bendes & Kuhner, P.C.'s billing statements for this case.

3. That the billing statements issued for this case are attached to this fee application are true and accurate and the time entries reflected in these billing statements represent the services rendered and costs incurred by Kornfield, Nyberg, Bendes & Kuhner, P.C. as counsel for the Trustee in connection with this case.

4. That the firm of Kornfield, Nyberg, Bendes & Kuhner, P.C., other than as set forth herein, has not been paid or promised any compensation from any other source for services rendered in connection with this case.

5. That Kornfield, Nyberg, Bendes & Kuhner, P.C. has not entered into any agreement or understanding with any other entity for the sharing of compensation received or to be received for services rendered and/or to be rendered in connection with this case.

6. That to the best of my knowledge, information and belief, the compensation and expense reimbursement sought herein is in conformity with the Guidelines for Compensation and Expense Reimbursement of Professionals for the United States Bankruptcy Court for the Northern District of California, except to the extent set forth in the application.

7. That this application is submitted in accordance with Guideline No. 3 of the Guidelines for Compensation and Expense Reimbursement of Professionals for the United States Bankruptcy Court for the Northern District of California.

8. That the compensation and expenses sought herein were billed at rates no less favorable than those customarily billed by applicants and generally accepted by the applicant's clients.

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I declare under penalty of perjury that the foregoing is true and correct and that this  
Verification was executed this 7<sup>th</sup> day of February, 2014 at Oakland, California.

/s/ Chris D. Kuhner